

SUPREME COURT OF MISSOURI

Edgerton v. Morrison

280 S.W.3d 62 (Mo. banc 2009) · Decided April 14, 2009

SUMMARY

The Missouri Supreme Court affirmed a judgment against a cardiothoracic surgeon in a medical negligence action involving the failure to diagnose and treat an unstable, necrotic sternum after cardiac bypass surgery. The Court held that the verdict director, verdict form, and damages instruction were proper and that sufficient evidence supported causation, including evidence that earlier diagnosis could have allowed a preferable rigid repair procedure.

CASE DETAILS

COURT	Supreme Court of Missouri
WRITING FOR THE COURT	Mary R. Russell
JURISDICTION	Missouri
DECIDED	April 14, 2009
DISPOSITION	affirmed
PROCEDURAL POSTURE	Medical-malpractice defendants appealed a circuit-court judgment entered against them after a jury verdict. The Supreme Court of Missouri granted transfer after the court of appeals had disposed of the case.
STANDARD OF REVIEW	The propriety of jury instructions is reviewed de novo. The supporting evidence is viewed in the light most favorable to submission of the instruction, and reversal requires instructional error that misdirected, misled, or confused the jury and resulted in prejudice. Sufficiency of the evidence supporting the verdict is reviewed in the light most favorable to the verdict, giving the prevailing party the benefit of reasonable inferences and disregarding contrary evidence; the verdict must be upheld unless there is a complete absence of probative fact.
PRECEDENTIAL VALUE	Published Missouri Supreme Court opinion; precedential.
PARTIES	Stephen K. Morrison, M.D., Ferrell-Duncan Clinic v. Edgar T. Edgerton

TOPICS

medical malpractice

jury instructions

standard of review

appellate procedure

negligence

PRACTICE AREAS

medical malpractice

negligence

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the verdict director's use of the term "rigid fixation" improperly gave the jury a roving commission.
2. Whether the verdict form was improperly modified by adding the phrase "as submitted by Instruction No. 11."
3. Whether the damages instruction improperly permitted an award for damages attributable to other defendants.
4. Whether the evidence was sufficient to establish that the defendants' negligent diagnosis caused Edgerton's injury and supported denial of directed-verdict, judgment-notwithstanding-the-verdict, and new-trial motions.

HOLDINGS

1. The verdict director was proper because, in the context of the evidence and arguments, the term "rigid fixation" provided a sufficient factual guideline and referred to the two rigid procedures available to Edgerton.
2. The verdict form was proper because the added phrase "as submitted by Instruction No. 11" merely identified the claim corresponding to the defendant and did not misdirect, mislead, or confuse the jury.
3. The damages instruction did not warrant reversal because the jury was instructed to harmonize and apply the instructions as a whole, and it found no other defendant liable for damages under the referenced instructions.
4. The evidence was sufficient to support the jury's finding that the defendants' negligent failure to diagnose the sternum condition caused Edgerton injury by depriving him of the opportunity to receive a preferable rigid repair.

KEY QUOTATIONS

"Reversal for instructional error is appropriate when the instruction misdirected, misled, or confused the jury and resulted in prejudice." (66)

"This Court finds no indication that the identifying phrase "as submitted by Instruction No. 11" misdirected, misled, or confused the jury." (67)

"Viewing this evidence under the proper standard of review, and ignoring contrary evidence, it cannot be said that "there is a complete absence of probative fact" regarding the element of causation." (70)

FACTUAL BACKGROUND

After cardiac bypass surgery requiring a sternotomy, Edgerton developed chest symptoms and an unstable, deteriorating sternum. Morrison twice determined that the sternum was stable or well healed and did not diagnose the condition. A subsequent surgeon found that most of the sternum had become necrotic and performed a muscle-flap repair because infection was suspected, although no infection was ultimately found. Edgerton's expert testified that earlier diagnosis could have permitted preferable rigid repairs, such as a rib transfer or mesh procedure, and that the failure to diagnose caused the loss of that opportunity.

PROCEDURAL HISTORY

Edgerton sued Morrison and Ferrell-Duncan Clinic for negligent diagnosis and treatment of an unstable sternum following cardiac bypass surgery. A jury returned a verdict against the defendants, and the circuit court entered judgment. The defendants challenged the verdict director, verdict form, damages instruction, and the sufficiency of the causation evidence. After the court of appeals disposed of the appeal, the Supreme Court of Missouri granted transfer and affirmed.

DISPOSITION

affirmed

CASES CITED

- Bach v. Winfield-Foley Fire Prot. Dist., 257 S.W.3d 605, 608 (Mo. banc 2008)
- Oldaker v. Peters, 817 S.W.2d 245, 251 (Mo. banc 1991)
- Sorrell v. Norfolk S. Ry. Co., 249 S.W.3d 207, 209 (Mo. banc 2008)
- Hustad v. Cooney, 308 S.W.2d 647, 650 (Mo. 1958)
- Grindstaff v. Tygett, 655 S.W.2d 70, 73 (Mo. App. 1983)
- Hickman v. Branson Ear, Nose, & Throat, Inc., 256 S.W.3d 120, 123 (Mo. banc 2008)
- Dunn v. St. Louis-San Francisco Ry. Co., 621 S.W.2d 246, 255 (Mo. banc 1981)
- Spain v. Brown, 811 S.W.2d 417, 420 (Mo. App. 1991)
- Karashin v. Haggard Hauling & Rigging Inc., 653 S.W.2d 203, 206 (Mo. banc 1983)
- Mathes v. Sher Express, LLC, 200 S.W.3d 97, 105 (Mo. App. 2006)
- Bowan ex rel. Bowan v. Express Med. Transporters, Inc., 135 S.W.3d 452, 462 (Mo. App. 2004)
- Clevenger v. Oliver Ins. Agency, Inc., 237 S.W.3d 588, 590 (Mo. banc 2007)
- Sundermeyer v. SSM Reg'l Health Servs., 271 S.W.3d 552, 554 (Mo. banc 2008)
- Sundermeyer v. SSM Reg'l Health Servs., 271 S.W.3d 552, 556 (Mo. banc 2008)
- Stehno v. Sprint Spectrum, L.P., 186 S.W.3d 247, 250 (Mo. banc 2006)